

GERALD G. CALHOUN

IBLA 76-750

Decided November 4, 1976

Appeal from a decision of the New Mexico State Office of the Bureau of Land Management rejecting oil and gas lease offer NM 27962.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings

A simultaneous oil and gas lease offer is properly rejected when the offeror fails to execute fully the drawing entry card by not identifying on the card the state in which the parcel of land is located.

APPEARANCES: Jason W. Kellahin, Esq., Santa Fe, New Mexico, for appellant.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

The simultaneously-filed drawing entry card of Gerald G. Calhoun was drawn first by the New Mexico State Office, BLM, in the drawing held April 5, 1976, to determine the priority of consideration for awarding an oil and gas lease covering Parcel No. 590.

By its decision dated July 12, 1976, the BLM State Office rejected Calhoun's offer because of his failure to fully execute the drawing entry card, in that he left blank the space provided for indicating the state in which the land is situated.

[1] In his statement of reasons for appeal, appellant acknowledges that he is aware of the decisions contrary to his

position. However, he asserts that the requirement to include the name of the state on the card was both confusing and unnecessary and, as proof that the Department so regarded it, he points to the fact that the card has since been revised to eliminate the need for the applicant to enter the name of the state.

This argument is refuted in part by the appellant himself, who also points out that coincident with the revision of the card to eliminate the space for the designation of the state, the system of numbering the parcels was also changed to include a letter prefix to indicate the state in which the parcel lies. Quite obviously, therefore, the Bureau still regards it as necessary that the parcel be identified by number and by state. The fact that the system has been simplified so that the applicant indicates both when he enters the designation of the parcel on the new card, instead of entering the parcel number and state separately as before, in no way compels the conclusion that appellant's failure to comply with the requirement should be ignored or excused.

Appellant's contention that the form is confusing, as evidenced by "the large number of instances in which the name of the state has been omitted," is equally unpersuasive. We do not know how many such rejections there have been, nor has appellant supplied a figure. However, only a relative handful ^{1/} have reached this Board on appeal. Drawing entry cards numbering in the tens of thousands are filed each month and we think it safe to assume that the vast majority did not suffer from this defect. Appellant argues that one might be led to think that the space marked "State" could have required him to enter the state of his residence. However, appellant did not enter the wrong state, he simply failed to write in the name of any state. This more strongly suggests negligence than confusion.

Finally, appellant argues that a decision in this case be stayed pending completion of litigation now pending before the Court of Appeals for the Tenth Circuit in the case of Ballard E. Spencer Trust, Inc. v. Morton, No. 75-1841. ^{2/} That case involves the failure of a corporation either to file a statement of its corporate qualifications with its simultaneous oil and gas lease offer or to indicate the serial number under which such statement had previously been filed, as required by regulation. Although

^{1/} Certainly no more than 10 total, decided and pending.

^{2/} Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974), aff'd sub nom. B.E.S.T., Inc. v. Morton, Civ. No. 75-060 (D. N.M., filed Aug. 19, 1975).

there may be some tangential similarity of the issues, we do not anticipate that the judicial determination of Best would necessarily be dispositive of this appeal.

Offers to lease submitted in response to a notice of simultaneous offering must be filed on an approved entry card which is "signed and fully executed by the applicant." 43 CFR 3112.2-1(a). This instruction is clearly stated on the back of the May 1974 version of Form 3112-1, the approved entry card filed by appellant. The Board has held that failure to include in the space provided on the card the name of the state in which the parcel of land is located renders the card incomplete and subject to rejection. Rexmull F. Manyeto, 25 IBLA 218 (1976); Ray Granat, 25 IBLA 115 (1976) 3/; Albert E. Mitchell, III, 20 IBLA 302 (1975). The BLM State Office therefore properly rejected appellant's offer.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing
Administrative Judge

We concur:

Martin Ritvo
Administrative Judge

Joan B. Thompson
Administrative Judge

3/ Judicial review pending.

